

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CARL PEACOCK	§	
v.	§	CIVIL ACTION NO. 9:08CV229
J.A.M. DISTRIBUTING, INC.	§	

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE

The [Report and Recommendation](#) of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this case has been presented for consideration. The Report and Recommendation recommends that the complaint be dismissed without prejudice for failure to prosecute as a result of Plaintiff's failure to comply with an [Order](#) entered on December 18, 2008 directing Plaintiff to submit either the filing fee or an application to proceed *in forma pauperis*.

On March 4, 2009, in response to the Report and Recommendation, Plaintiff filed a motion for extension of time (document [#6](#)). The motion was granted on March 9, 2009, and Plaintiff's deadline was extended to April 6, 2009. On April 6, 2009, Plaintiff filed a second motion to extend the time to pay the filing fee (document [#8](#)). Plaintiff stated that he would dismiss the case if he did not pay the filing fee within thirty days. The motion was granted on April 9, 2009, and Plaintiff's deadline to either pay the filing or submit an application to proceed *in forma pauperis* was extended to May 8, 2009. The [Order](#) stated that Plaintiff has been given ample time to comply with the December 18, 2008 Order and no further extensions would be granted without a showing of

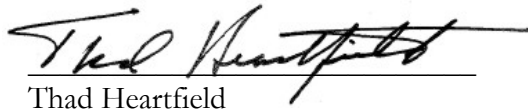
exceptionally good cause. The Court received an acknowledgment of receipt card showing that Plaintiff received the Order on April 10, 2009. Nevertheless, Plaintiff has not paid the filing fee nor submitted an application to proceed *in forma pauperis*.

Having made a *de novo* review of the pleadings filed by Plaintiff, the Court finds that the findings and conclusions of the Magistrate Judge are correct and any objections are without merit. The Court, therefore, adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

ORDERED that the complaint is **DISMISSED** without prejudice for failure to prosecute. Any motion not previously ruled on is **DENIED**.

SIGNED this the 28 day of May, 2009.


Thad Heartfield
United States District Judge